

STATE OF HAWAII
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of
HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION, LOCAL 152,
AFSCME, AFL-CIO,

Petitioner,

and

FRANK F. FASI, Mayor of the
City and County of Honolulu,

Employer.

Case Nos. RA-02-15
RA-03-16
RA-04-17
RA-13-18

In the Matter of
HAWAII GOVERNMENT EMPLOYEES'
ASSOCIATION, LOCAL 152,
AFSCME, AFL-CIO,

Petitioner,

and

FRANK F. FASI, Mayor of the
City and County of Honolulu,

and

UNITED PUBLIC WORKERS, LOCAL
646, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO,

and

HAWAII TEAMSTERS AND ALLIED
WORKERS, LOCAL 996, and
GEORGE KAISAN and ARTHUR
OHELO,

and

MTL, INC.,

Intervenors.

Case Nos. DR-02-12
DR-03-13
DR-04-14
DR-13-15

Order No. 155

ORDER DENYING STAY OF DECISION

The petitioner in the above entitled cases, the Hawaii Government Employees' Association (hereafter HGEA), moved that this Board stay HPERB Decision 85. Said motion

was filed on November 2, 1977. A hearing on the motion was held on November 7, 1977, in the presence of attorneys for the HGEA, the City and County of Honolulu, United Public Workers, Hawaii Teamsters and Allied Workers and MTL, Inc.

The HGEA motion for a stay of Decision 85 is made pursuant to Subsection 91-14(c), Hawaii Revised Statutes.

Said section reads:

§91-14 Judicial review of contested cases.

(c) The proceedings for review shall not stay enforcement of the agency decisions; but the agency or the reviewing court may order a stay upon such terms as it deems proper.

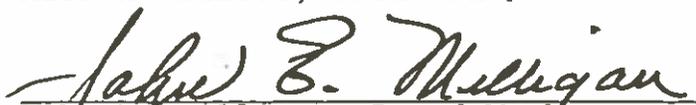
At the November 7 hearing, the attorney for the HGEA orally amended the motion to stay. The HGEA now moves this Board to stay only that portion of Decision 85 dismissing the RA (unit clarification) cases.

Subsection 91-14(c) speaks of staying the "enforcement of the agency decisions," and not of staying the decision itself. This language is consistent with the principle that stays do not operate on judgments, but only upon the efficacy or enforcement of judgments. Gumperts v. East Oak Street Hotel Co., 404 Ill. 386, 88 N.E. 2d 883 (1949).

HPERB Decision 85 is self-executing. No part of this decision requires enforcement, for it neither commands nor forbids action by any party. The RA portion of the decision only dismisses the unit clarification cases. There is nothing for this Board to stay. Accordingly, the motion is denied.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


Mack H. Hamada, Chairman


John E. Milligan, Board Member

Dated: November 14, 1977

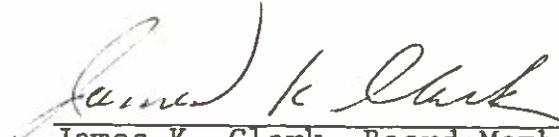
Honolulu, Hawaii

DISSENT

I respectfully dissent. A stay of execution of the Board's decision pending disposition of appeals does not, in my opinion, affect the decision itself. It means only that the decision cannot be carried out until the courts have decided whether the Board's decision should be sustained or reversed.

In my opinion, HGEA has shown sufficient justification for a stay of execution, and it should be granted.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD


James K. Clark, Board Member

Dated: November 14, 1977

Honolulu, Hawaii